

1 THE HONORABLE RICARDO S. MARTINEZ
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 SANDRA L. FERGUSON,

11 Plaintiff,

12 vs.

13 BRIAN J. WAID AND THE WAID
14 MARITAL COMMUNITY,

15 Defendants.

NO. 2:17-cv-1685-RSM

COUNTER-PLAINTIFF/DEFENDANT
BRIAN J. WAID'S REPLY IN SUPPORT
OF THE MOTION FOR
SUPPLEMENTAL PROCEEDINGS

NOTE DATE: FEBRUARY 15, 2019

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17 Plaintiff/Counter-Defendant Sandra Ferguson does not object to the categories of
18 information and documents requested in supplemental proceedings. Therefore, this Court should
19 issue an order directing Ms. Ferguson to provide the requested information and documents in
20 supplemental proceedings.

21 Ms. Ferguson's only objection is to the time period of the requested information and
22 documents. However, Ms. Ferguson fails to cite any legal authority for the proposition that five
23 years of information and documents is unduly burdensome and overbroad with respect to tracing
24 and establishing Ms. Ferguson's assets and property. She also fails to provide a declaration
25 supporting any of the facts stated in her response.

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COUNTER-PLAINTIFF/DEFENDANT BRIAN J.
WAID'S REPLY IN SUPPORT OF THE
MOTION FOR SUPPLEMENTAL
PROCEEDINGS -1
(2:17-CV-01685-RSM)

CARROLL, BIDDLE, &
BILANKO, PLLC
801 2nd Avenue, Suite 800
Seattle, WA 98104
Telephone: (206) 489-5549

1 First, five years of information and documents is a reasonable request to allow for
 2 sufficient analysis of Ms. Ferguson's available assets and property to enforce Mr. Waid's
 3 judgment.¹ For example, in *Mission Capital Works, Inc. v. SC Restaurants, Inc.*, the court found
 4 that requests for ten years of information regarding property, income, and assets and requests for
 5 five years of financial and tax documents was appropriate.² "The presumption should be in favor
 6 of full discovery of any matters arguably related to the judgment creditor's efforts to trace the
 7 judgment debtor's assets and otherwise enforce [his] judgment."³

8 In addition, to support her request that the scope of supplemental proceedings be limited
 9 to two years, Ms. Ferguson states that evidence of the recent payment to Mr. Waid pursuant to
 10 the sanctions order is insufficient to justify a five-year time period. Ms. Ferguson, however,
 11 does not cite to any case law or other authority to support this proposition. Moreover, given that
 12 no financial documents or information were produced in discovery, Ms. Ferguson's recent
 13 payment is the only documentary evidence in this case of Ms. Ferguson's financial condition.
 14 The fact that it was a recent payment does not preclude Mr. Waid from access to information and
 15 documents that allows for sufficient analysis of Ms. Ferguson's assets and property. Likewise,
 16 the assertion that Ms. Ferguson's law practice information and documents for the last two years
 17 would be sufficient to show past and future income is belied by the fact that Ms. Ferguson takes
 18 contingency cases that could take more than two years to resolve—for example, *SEBS v. ABC,*
 19 *Corp.*, King County Superior Court Case No. 10-2-06166-5 SEA, the case that resulted in a fee
 20 dispute between Ms. Ferguson and her co-counsel, and in which Mr. Waid represented Ms.
 21 Ferguson regarding the fee dispute.⁴

22
 23 ¹ See *Mission Capital Works, Inc. v. SC Restaurants, Inc.*, No. 09-CV-1623-WQH(JMA), 2009 WL 4895315, at *1–
 2 (S.D. Cal. Dec. 10, 2009).

24 ² *Id.*

25 ³ *Id.* (quoting *Credit Lyonnais, S.A. v. SGC Intern., Inc.*, 160 F.3d 428, 430 (8th Cir.1998) (internal quotations
 26 omitted)).

⁴ See Decl. of Sandra Ferguson in Support of Pl.'s Mot. for Declaratory Rulings & Partial S.J., Dkt. no. 58-1, at ¶¶
 42, 52.

**COUNTER-PLAINTIFF/DEFENDANT BRIAN J.
 WAID'S REPLY IN SUPPORT OF THE
 MOTION FOR SUPPLEMENTAL
 PROCEEDINGS -2
 (2:17-CV-01685-RSM)**

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Finally, the assertion that some of the requested financial records were produced during discovery in prior lawsuits between the parties is incorrect.⁵ There were two lawsuits filed by Ms. Ferguson against Mr. Waid in King County Superior Court, one in 2014 and the other in 2015.⁶ Ms. Ferguson only produced limited financial information in the 2014 case, consisting of bank records for one account in her name and for a second account in the name of The Ferguson Firm, PLLC, covering the time period of April 2011 to the latter part of February 2012.⁷ Not only are those records not from the time period requested in supplemental proceedings but also Mr. Waid believes those records are subject to a protective order.⁸ In addition, no discovery was conducted in the 2015 case because the court entered a stay pending the appeal of the 2014 case.⁹ Ms. Ferguson presents no legal or factual basis to limit the scope of supplemental proceedings to a two-year time period for information and documents. The five-year time period is reasonable and could reveal more available assets and property than could be ascertained from reviewing information and documents for the last two years.

For the foregoing reasons and the reasons stated in the moving brief, Mr. Waid respectfully requests that this Court issue an order directing Ms. Ferguson to appear and testify regarding the requested financial information and to produce copies of the requested documents for the time period of January 1, 2014 to present.

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⁵ See Waid Decl. ISO Reply, at ¶¶ 2–4.

⁶ Waid Decl. ISO Reply, at ¶ 2.

⁷ Waid Decl. ISO Reply, at ¶ 3.

⁸ Waid Decl. ISO Reply, at ¶ 3.

⁹ Waid Decl. ISO Reply, at ¶ 4.

1 Dated: February 15, 2019

CARROLL, BIDDLE, & BILANKO, PLLC

3 By: /s/Jeffrey E. Bilanko
4 Jeffrey E. Bilanko, WSBA 38829

5 /s/Susan K. Kaplan
6 Susan K. Kaplan, WSBA 40985

7 Carroll, Biddle, & Bilanko, PLLC
8 801 2nd Avenue, Suite 800
9 Seattle, WA 98104
10 Phone: (206) 489-5549
11 Email: jbilanko@cbblegal.com
12 Email: skaplan@cbblegal.com
13 Attorneys for Counter-
14 Plaintiff/Defendant Brian J. Waid

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**COUNTER-PLAINTIFF/DEFENDANT BRIAN J.
WAID'S REPLY IN SUPPORT OF THE
MOTION FOR SUPPLEMENTAL
PROCEEDINGS -4
(2:17-CV-01685-RSM)**

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BILANKO, PLLC**
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1 **CERTIFICATE OF SERVICE**

2 The undersigned declares under penalty of perjury under the laws of the State of
3 Washington that on this day a true and accurate copy of the document to which this declaration is
4 affixed was filed with the above-entitled Court through CM/ECF and was sent as indicated
5 below on this day, to:

6
7 **Attorneys for Plaintiff:**
8 Sandra L. Ferguson
9 The Ferguson Firm
10 The Pioneer Building
11 600 First Avenue
12 Seattle, WA 98104
13 Tel.: (206) 624-5696
14 Fax: (206) 770-7340

15 U.S. Mail Postage Prepaid
16 CM/ECF
17 Hand Delivery
18 Email: sandra@slfergusonlaw.com

19 DATED this 15th day of February 2019.

20
21 _____
22 */s/ Stephanie M. Hosey*
23 Stephanie M. Hosey, Paralegal
24
25
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**COUNTER-PLAINTIFF/DEFENDANT BRIAN J.
WAID'S REPLY IN SUPPORT OF THE
MOTION FOR SUPPLEMENTAL
PROCEEDINGS -5
(2:17-CV-01685-RSM)**

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